



Federal Communications Commission  
Washington, D.C. 20554

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DA 09-2204

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Dear Mr. Nace and Ms. Sodos-Wallace:

On April 25, 2007, Northwest Communications Cooperative ("NCC") filed a request seeking a permanent waiver of Sections 27.1230-27.1239 of the Commission's Rules to allow NCC and its licensees/lessors to opt-out of the transition of the 2500-2690 MHz band for site-based operations in the Epping and Bowbells Geographic Service Areas (GSAs).<sup>1</sup> On April 21, 2009, NCC sought leave to withdraw its Waiver Request for its Epping, North Dakota GSA.<sup>2</sup> For the reasons stated below we grant NCC's Withdrawal Request. We also grant Fixed Wireless Holdings, LLC and Clearwire Corporation (together, Clearwire) an extension of time until February 1, 2012 to complete the transition of the Williston, North Dakota Basic Trading Area (B476) (Williston BTA).

NCC seeks to withdraw its opt-out waiver request for its Epping, North Dakota GSA because it has changed its business plans.<sup>3</sup> Specifically, instead of continuing to offer service over 19 high-power channels in the 2496-2690 MHz band, NCC will migrate its video customers to a fiber optic system.<sup>4</sup> NCC has coordinated this Withdrawal Request with Clearwire, the transition proponent for the Williston BTA, where the NCC's Epping operations are located.<sup>5</sup> We note that the Transition Initiation Plan filed by Clearwire for the Williston BTA on January 21, 2009, included the licenses that constitute NCC's Epping operations.<sup>6</sup> Clearwire originally estimated that it would complete the transition for the Williston

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<sup>1</sup> Request for Waiver, Northwest Communications Cooperative (filed Apr. 25, 2007) (Waiver Request).

<sup>2</sup> Notice of Conditional Amendment to Opt-Out of Northwest Communications Cooperative and Amendment to Transition Plan of Clearwire Corporation for BTA 476, Williston, North Dakota, Northwest Communications Cooperative and Clearwire Corporation (filed Apr. 21, 2009) (Withdrawal Request).

<sup>3</sup> *Id.* at 1. The Bowbells GSA, which is not subject of the Withdrawal Request, is located in the Minot, North Dakota BTA (B299). Withdrawal Request at 1.

<sup>4</sup> Withdrawal Request at 1; Waiver Request at 3.

<sup>5</sup> Letter from Nadja Sodos-Wallace, Regulatory Counsel and Assistant Secretary, Clearwire Corporation to Office of the Secretary, Federal Communications Commission, WT Docket No. 06-136 (filed Jan. 21, 2009) (Clearwire Williston Transition Initiation Plan).

<sup>6</sup> Clearwire Williston Transition Initiation Plan at Exhibit 1.

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BTA by August 3, 2009.<sup>7</sup> NCC and Clearwire have agreed that NCC will cease operations under the old band plan and technical rules by December 31, 2011 and that Clearwire will complete the transition of the Williston BTA by February 1, 2012.<sup>8</sup> As part of its coordination with NCC's Withdrawal Request, Clearwire has filed an amendment to its Transition Initiation Plan estimating that it would complete the transition by February 1, 2012.<sup>9</sup>

We have reviewed the Withdrawal Request and find that withdrawal of the Waiver Request would facilitate transition to the new band plan for the 2500-2690 MHz band and would be consistent with NCC's current business plans. We therefore find NCC's Withdrawal Request to be in the public interest. As required, we will place Clearwire's transition plan for the Williston, North Dakota BTA, as amended, on public notice.<sup>10</sup> In light of our decision granting NCC's Withdrawal Request, and in light of the public interest benefits of allowing an orderly transition of NCC's system, we grant Clearwire an extension of time to transition the Williston BTA until February 1, 2012.

Accordingly, IT IS ORDERED, pursuant to Section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), and Section 27.1231(g) of the Commission's Rules, 47 C.F.R. § 27.1231(g), that the Notice of Conditional Amendment to Opt-Out Request of Northwest Communications Cooperative and Amendment to Transition Plan of Clearwire Corporation for BTA 476, Williston, North Dakota filed by Northwest Communications Cooperative and Clearwire Corporation on April 21, 2009 IS GRANTED, and the Request for Waiver filed by Northwest Communications Cooperative on April 25, 2007 IS DISMISSED WITH PREJUDICE with respect to operations within the Williston, North Dakota BTA.<sup>11</sup>

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<sup>7</sup> Clearwire Williston Transition Initiation Plan at 1.

<sup>8</sup> Withdrawal Request at 1-2.

<sup>9</sup> Letter from Nadja Sodos-Wallace, Regulatory Counsel and Assistant Secretary, Clearwire Corporation to Office of the Secretary, Federal Communications Commission, WT Docket No. 06-136 (filed Apr. 21, 2009) at 1-2.

<sup>10</sup> See Amendment of Parts 1, 21, 73, 74 and 101 of the Commission's Rules to Facilitate the Provision of Fixed and Mobile Broadband Access, Educational and Other Advanced Services in the 2150-2162 and 2500-2690 MHz Bands, *Third Memorandum Opinion and Order and Second Report and Order*, WT Docket No. 03-66, 21 FCC Rcd 5606, 5653 ¶ 93 (2006).

<sup>11</sup> The Waiver Request remains pending with respect to NCC's operations at Bowbells, North Dakota.

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IT IS FURTHER ORDERED, pursuant to Section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. § 154(i), and Sections 1.46 and 27.1232(b)(1)(vi) of the Commission's Rules, 47 C.F.R. §§ 1.46, 27.1232(b)(1)(vi) that the time for completing the transition in the Williston, North Dakota Basic Trading Area IS EXTENDED TO February 1, 2012.

This action is taken under delegated authority pursuant to Sections 0.131 and 0.331 of the Commission's rules, 47 C.F.R. §§ 0.131, 0.331.

FEDERAL COMMUNICATIONS COMMISSION

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